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New Federal Court decisions now allow the selling, distribution and dissemination of so-called "Obscene" materials through the mails. Please note the enclosed copy of a Los Angeles Times article, dated May 7, 1970. In the article, Judge MacBride states "the government may not legislate to control what books or films a person may possess in his house regardless of their content." Judge MacBride also states..."The Supreme Court has recognized the protection of children, and the protection of an unwilling public from obtrusive invasions of privacy as proper governmental interests justifying obscenity laws. BUT NEITHER OF THESE CAN BE USED TO JUSTIFY PROHIBITING MAILINGS TO A REQUESTING ADULT..." Therefore, under the protection of the law, we are now free to offer you the type of merchandise you've been waiting for... the type of films and books that you've been asking for...the type of movies and reading material that you could only get by gambling on overseas shippers...not the most reliable people in the world, to say the least!

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Use of Mails to Send Solicited Smut Is No Crime, Judge Rules

Court Says Government Has No Right to Legislate Control of Books or Films a Person May Have in His Own Home

BY GENE BLAKE
Times Staff Writer

In what may become a landmark decision, a federal district judge in Sacramento has ruled it is not a crime to send obscene materials through the mail to an adult who requests them.

U.S. Dist. Judge Thomas J. MacBride dismissed four counts charging _____ of Los Angeles, doing business as _____,

with mailing obscene matter.

Although the case involved only the use of the mails, it presumably could be made applicable to any means of selling or distributing obscene materials to adults

requesting them.

And because this would remove a potent enforcement weapon in the obscenity field, the ruling is almost certain to be appealed to higher courts.

Judge MacBride relied on a U.S. Supreme Court decision last year that the mere private possession of obscene material is not a crime.

_____ attorneys argued that the right to possess implies the right to buy or receive—a right that is meaningless unless someone has the right to sell or send.

Judge MacBride agreed.

"I start with the proposition," he said in his ruling last week, "that the government may not legislate to control what books or films a person may possess in his house regardless of their content."

"If the government has no substantial interest in preventing a citizen from reading books and watching films in the privacy of his home, then clearly it can have no greater interest in preventing him from acquiring them."

Judge MacBride said the only possible purpose for doing so would be to prevent the citizen from enjoying the material.

"The government interest is not augmented because a person buys the material instead of receiving it some other way," he said. "Thus, I conclude that a person has a constitutional right to buy or receive obscene material."

Please Turn to Page 30, Col. 1

"...A PERSON HAS A CONSTITUTIONAL RIGHT TO BUY OR RECEIVE OBSCENE MATERIAL."

...Thomas J. MacBride, Federal Court Judge

REPRINTED FROM THE LOS ANGELES TIMES, MAY 7, 1970 EDITION*

Judge Upsets Ban on Mailing Solicited Smut

Continued from Third Page

Judge MacBride said the final step in the reasoning is not difficult.

"Can it be reasonably argued that although the government may not directly prevent someone from buying a book, it may achieve the same result indirectly by making it a crime to sell the book to him?" he

asked.

"I think not, unless the government can demonstrate it has some substantial interest in preventing the sale other than keeping the purchaser from buying."

Judge MacBride said the Supreme Court has recognized the protection of children and the protection of an unwilling public from obtrusive invasions of privacy as proper governmental interests justifying obscenity laws.

"But neither of these can be used to justify prohibiting mailings to a requesting adult,"

he said. "There is no public display, and children are not involved."

"No valid governmental interest remains, and the conclusion is inescapable that the government cannot constitutionally bring such a prosecution."

Judge MacBride said he realizes his decision will not comfort those who are concerned about cracking down on smut peddlers. But he pointed out that the decision is narrowly circumscribed.

"It will interfere only with those laws which seek to tell

an adult what literature or films he may acquire for his own enjoyment," he pointed out.

"We may not always agree with the literary tastes of our fellow citizens, but we may not impose our tastes upon others by censorship or other means unless some greater interest of society is at stake."

"That is the price we pay for a free society. As I have attempted to show, there is no governmental interest other than 'thought control' to sustain this attempted prosecution. . ."

*WITH THE NAMES OF THE PARTIES AND ATTORNEYS OMITTED

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☐ Reel no. 1 — "Cindy, Joe and Rick"

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